

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA
Western Division

U.S.A. vs. Michael Allan Smith

Docket No. 5:12-CR-186-1D

Petition for Action on Supervised Release

COMES NOW Maurice J. Foy, Sr. U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of, Michael Allan Smith, who, upon an earlier plea of guilty to Failure To Register As A Sex Offender, was sentenced by the Honorable James C. Dever III, Chief U.S. District Judge on August 7, 2013, to the custody of the Bureau of Prisons for a term of 27 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall participate in a program of mental health treatment, as directed by the probation office.
3. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
4. While under supervision in the Eastern District of NC, the defendant shall participate in the DROPS Program and, in response to detected illegal drug use, shall be confined in the custody of the Bureau of Prisons for a period not to exceed 30 days of intermittent confinement, as arranged by the probation office, in the following increments: First Use - Two Days; Second Use - Five Days; Third Use - Ten Days.
5. The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.), as directed by the U.S. Probation Officer, the Bureau of Prisons, or any state or tribal government sex offender registration agency in a state where the defendant resides, works, is a student, or was convicted of a qualifying crime.
6. The defendant shall cooperate in the collection of DNA as directed by the probation officer

Michael Allan Smith was released from custody on December 11, 2014, at which time the term of supervised release commenced.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS
FOLLOWS:**

The defendant is currently on supervised release as a result of Failure to Register as a Sex Offender. The defendant signed a Waiver of Hearing agreeing to the proposed modifications of supervision that he and the probation officer both believe will help him be successful while completing his term of supervised release.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. To ensure compliance with supervision, the defendant shall submit to unannounced searches of any computer or computer equipment (including mobile phones) which, in the discretion of the U.S. Probation Officer, may include the use of computer monitoring technology, computer search or analysis software, and copying of all data from the device and external peripherals. Such examination may require the removal of devices from the defendant's possession for the purpose of conducting a thorough inspection.
2. At the direction of the U.S. Probation Officer, the defendant shall consent to the installation of systems or software that will allow the probation officer or designee to monitor computer use on any computer that the defendant owns or is authorized to use. The defendant shall pay the costs of this monitoring.
3. The defendant shall not associate or have verbal, written, telephonic, or electronic communications with any person under the age of eighteen (18), except: (1) in the presence of the parent or legal guardian of said minor; (2) on the condition that the defendant notifies the parent or legal guardian of the defendant's conviction or prior history; and (3) with specific, written approval from the U.S. Probation Officer. This provision does not encompass persons under the age of eighteen with whom the defendant must deal in order to obtain ordinary and usual commercial services (e.g., waiters, cashiers, ticket vendors, etc.).
4. The defendant shall not have any social networking accounts without the approval of the U.S. Probation Officer.
5. At the direction of the U.S. Probation Officer, the defendant shall submit to physiological testing, which may include, but is not limited to, polygraph examinations or other tests to monitor the defendant's compliance with probation or supervised release and treatment conditions.
6. The defendant shall submit to a psycho-sexual evaluation by a qualified mental health professional who is experienced in evaluating sexual offenders and who is approved by the U.S. Probation Officer.
7. The defendant shall participate in a sex offender treatment program as directed by the U.S. Probation Officer, and the defendant shall comply with and abide by all the rules, requirements, and conditions of the treatment program until discharged. The defendant shall take medication as prescribed by the treatment provider.

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Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

/s/Michael C. Brittain
Michael C. Brittain
Senior U.S. Probation Officer

I declare under penalty of perjury that the foregoing
is true and correct.

/s/Maurice J. Foy
Maurice J. Foy
Sr. U.S. Probation Officer
310 New Bern Avenue Room 610
Raleigh, NC 27601-1441
Phone: 919-861-8678
Executed On: January 9, 2015

ORDER OF THE COURT

Considered and ordered this 12 day of January, 2015 and ordered filed and
made a part of the records in the above case.

James C. Dever III
James C. Dever III
Chief U.S. District Judge